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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,091	08/17/2006	Richard Alan O'Hara	PHUS040128US2	9983
38107 7590 05/28/2009 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P. O. Box 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER GEDEON, BRIAN T				
ART UNIT		PAPER NUMBER		
3766				
MAIL DATE		DELIVERY MODE		
05/28/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/598,091

Applicant(s)

O'HARA, RICHARD ALAN

Examiner

Brian T. Gedeon

Art Unit

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8, 16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8, 16, and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. In view of the Appeal Brief filed on 29 December 2009, PROSECUTION IS HEREBY REOPENED. A new non-final rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) **file a reply under 37 CFR 1.111 (if this Office action is non-final)** or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Carl H. Layno/

Supervisory Patent Examiner, Art Unit 3766.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 8, 16, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Matos (US Patent no. 7,277,752).

In regard to claim 8, Matos describes a system for cardiac resuscitation that includes a portable defibrillation unit 104 that a person without any medical training can operate, col 4 line 23- col 7 line 8, col 27 lines 61- col 28 line 48, and col 31 line 36 - col 32 line 10. The system comprises the method for: providing voice instructions to a user for operating an external defibrillator device comprised of at least one set of electrodes couplable to a patient, col 13 lines 37-52;

transmitting over a wireless protocol a voice prompt instructing the user to attach the set of electrodes to the patient, col 28 lines 60-64;

checking the impedance of the at least one pair of electrodes, and prompting the user over the wireless protocol with a voice prompt if the electrodes are not properly attached, col 44 lines 19-54;

transmitting over the wireless protocol at least one additional voice prompt instructing the user by explaining how to administer defibrillator therapy, col 33 lines 16-21; and

transmitting the voice prompts to a receiver embedded in a portable device, said portable device being selected from the group consisting of a headphone, wireless telephone and a PDA, col 86 lines 44-50 and col 87 lines 48-60.

In regard to claim 16, Matos describes the method for providing voice instructions to a user for operating an external defibrillator device comprised of at least one set of electrodes couplable to a patient, col 4 line 23- col 7 line 8, col 27 lines 61- col 28 line 48, and col 31 line 36 - col 32 line 10, said method comprising the steps of: transmitting over a wireless protocol a voice prompt instructing the user to attach the set of electrodes to the patient, col 13 lines 37-52, col 27 lines 61- col 28 line 48; checking the impedance of the at least one pair of electrodes, and prompting the user over the wireless protocol with an audio prompt if the electrodes are not properly attached col 28 lines 60-64; and transmitting over the wireless protocol at least one additional voice prompt instructing the user by explaining how to administer defibrillator therapy, col 33 lines 16-21; wherein the voice prompt instructs the user that a patient assessment is beginning, col 124 lines 53-58.

In regard to claim 18, the invention of Matos as described above in reference to claim 1 includes: a controller 118, col 31 lines 44-58; an energy source; at least one electrode for providing electrotherapy to a patient, col 13 lines 37-52 and col 28 lines 55-58; an energy delivery system operable by the controller to deliver an electrical shock from the energy source to the at least one electrode, col 28 lines 60-68; a voice circuit for generating audio prompts initiated by the controller, col 13 lines 37-52, col 27 lines 61- col 28 line 48; a wireless transmitter coupled to the voice circuit for transmitting the audio prompts over a wireless communication protocol, the wireless transmitter

transmits the audio prompt over the wireless protocol to the user, col 33 lines 16-21; a portable device including a headphone, the portable device having a wireless receiver embedded therein, said wireless receiver operating in accordance with the wireless communication protocol over which the wireless transmitter operates, col 86 lines 44-50 and col 87 lines 48-60.

Response to Arguments

4. Applicant's arguments, see Appeal Brief, filed 29 December 2008, with respect to claims 8, 16, and 18 have been fully considered and are persuasive. The rejections of claims 8, 16, and 18 under the references to Rockwell (US Patent no. 6,405,083), Hamilton (US Publication no. 2002/055458), or Moore (US Patent no. 7,231,258) have been withdrawn.

Conclusion

5. In view of the new grounds of rejection, this action is **NON-FINAL**.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian T. Gedeon whose telephone number is (571) 272-3447. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl H. Layno can be reached on (571) 272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carl H. Layno/
Supervisory Patent Examiner, Art Unit 3766

/B. T. G./
Examiner, Art Unit 3766
22 May 2009